THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 19358 OF 1995

Between :

G. Ashok Kumar, Hyderabad and others

… Petitioners

And :

Life Insurance Corporation of India,
Hyderabad and others

… Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 19358 OF 1995

ORAL ORDER :

The petitioners have temporarily been appointed as temporary Sub-staff or Typists after sponsorship by the concerned Employment Exchange pursuant to a requisition made by the respondent-Corporation. The requisition was for temporary employment as Sub-staff or Typists, as the case may be. The orders of appointment are also clear, categorical and unequivocal that the appointment is on temporary basis.

In para-5 of the writ petition the petitioners allege that at the time of sponsorship by the Employment Exchange and interview the petitioners were not informed that their appointment is for a period of 85 days only. However, the petitioners admit that at the time of appointment they were informed that their appointment is on temporary basis. The petitioners claim to have had a legitimate expectation that their services would be continued as Sub-staff (indefinitely) and that they would be continued

beyond the fixed tenure for which they were appointed. They filed the writ petition seeking a direction to the respondent-Corporation to continue them as Sub-staff/Typists with all consequential benefits.

A counter affidavit and an additional affidavit dated 15.11.1995 and 14.7.1996 are filed. The gravamen of the defence plea is that the recruitment to Class III and IV posts in LIC is governed by the LIC of India (Recruitment of Class III and IV Staff) Instructions 1993, which ordains a written test, trade test wherever applicable, an interview and preparation of selection list/ranking list in the order of merit. However, in the exigency of work temporary appointments for short durations could be made. These appointments are governed by the LIC (Employment of Temporary Staff) Instructions 1993, which are statutory in character and have the force of law. In accordance with the later instructions, the petitioners were appointed on purely temporary basis for short periods. Each letter of appointment issued to the petitioners is clear that the appointments are on temporary basis as Sub-staff in Category –IV posts. In the circumstances the petitioners have no right to continue after the tenure for which they have been appointed, is the substance of the defence.

From the record and the averments in the counter affidavit which are not rebutted, it is apparent that the requisition was made to the Employment Exchange for appointment as temporary sub-staff. The petitioners were sponsored by the Employment Exchange pursuant to such a requisition. The orders of appointment issued to each of the petitioners is also as temporary Sub-staff for a determined and specified duration. In the circumstances the petitioners' claim that they should be continued in service without a limit and should be eventually absorbed, is a claim that has no legal basis.

Another contention urged by Smt. Udaya Sree, representing the learned counsel for the petitioner, is that as the posts are permanent and there is a continuing need for the petitioners' service, they ought to have been continued.

This is also a contention that does not commend acceptance by this

court. It is a settled principle in law that a temporary appointment can be made even in a permanent/sanctioned post. The employer has a spectrum of rational discretion with regard to making even temporary appointments in permanent posts in the exigency of service, which may be myriad such as pending assessment as to the need for filling up regularly of a sanctioned post; a temporary financial crunch or several such factors. In any event normally the petitioners are not seen to have any right to challenge the respondent-Corporation's discretion to determine a particular recruitment as a recruitment for a temporary tenure and to fill up the posts accordingly.

As the petitioners are disengaged on the expiry of their tenure as specified in the order of appointment, such conduct of the respondents suffers no infirmity warranting interference u/Art. 226 of the Constitution. There are no merits in the writ petition. The writ petition is accordingly dismissed.

Interim orders dated 28.8.1995 stand dissolved.

No order as to costs.

14.11.2006

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pvsn/Tsnr Justice G.Raghuram